

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT C. BOLUS,

No. 3:19-CV-00269

Plaintiff,

(Judge Brann)

v.

(Magistrate Judge Cohn)

ANDREW SAUL,<sup>1</sup>

*Commissioner of Social Security,*

Defendant.

**ORDER**

**AUGUST 25, 2020**

Robert C. Bolus filed this action seeking review of a decision by the Commissioner of Social Security (“Commissioner”) finding Bolus liable for an overpayment and withholding retirement payments while Bolus was incarcerated.<sup>2</sup>

In July 2020, Magistrate Judge Gerald B. Cohn issued a Report and Recommendation recommending that this Court affirm the Commissioner’s decision and close this case.<sup>3</sup>

Bolus filed timely objections to that recommendation.<sup>4</sup> In his objections, Bolus reiterates that he was placed on work release and contends that Magistrate

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<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 25(d), Andrew Saul, as the successor officer to Nancy Berryhill, Acting Commissioner of Social Security, is automatically substituted as Defendant in this action.

<sup>2</sup> Doc. 1.

<sup>3</sup> Doc. 12.

<sup>4</sup> Docs. 13, 14.

Judge Cohn therefore erred in concluding that the Commissioner's decision was support by substantial evidence, as Bolus' support was not paid through his incarceration.<sup>5</sup>

"If a party objects timely to a magistrate judge's report and recommendation, the district court must 'make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.'"<sup>6</sup> Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations.<sup>7</sup> Given the clear guidance from the relevant regulations and precedent from the United States Court of Appeals for the Third Circuit, the Court finds no error in Magistrate Judge Cohn's conclusion that the Commissioner's decision is supported by substantial evidence. Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Gerald B. Cohn's Report and Recommendation (Doc. 12) is **ADOPTED**;
2. The Commissioner's decision is **AFFIRMED**;

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<sup>5</sup> Doc. 14.

<sup>6</sup> *Equal Emp't Opportunity Comm'n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

<sup>7</sup> 28 U.S.C. § 636(b)(1); Local Rule 72.31.

3. Final Judgment is entered in favor of Defendant and against Plaintiff pursuant to Fed. R. Civ. P. 58 and sentence four of 42 U.S.C. § 405(g); and
4. The Clerk of Court is direct to **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann  
United States District Judge